REMARKS

Claims 61-125 were previously pending in this application. By this amendment, Applicant is canceling claims 121 and 125 without prejudice or disclaimer. Claims 61-62, 66, 69, 71-72, 73-75, 79, 88, 95, 99, 106, 113, 119, and 120 have been amended. New claim 126 has been added. As a result claims 61-120, 122-124, and 126 are pending for examination with claims 61, 88, 106, 113, and 120 being independent claims. No new matter has been added.

Examiner Interview

Applicant wishes to thank Examiner Chang and Abdi for the courtesies extended to Applicant's Representative during the Interview of September 2, 2009. During the course of the Interview, Examiners and Applicant's Representative discussed the outstanding rejection of the claims over the cited references (U.S. Patent No. 6,434,533, hereinafter "Fitzgerald" and U.S. Patent No. 6,330,610 B1, (hereinafter "Docter"), the teachings of the application, and discussed how the claims distinguish over the cited reference. In particular, Applicant's Representative discussed how Fitzgerald does not teach the concept of maintaining confidential identifying information of a company, by the company, while still providing nonconfidential information to a central exchange. Applicants Representative further discussed how employing Docter to filter out identifying information before it reached the processing system of Fitzgerald would render Fitzgerald unable to perform its stated objectives. For example, Fitzgerald would no longer be able to identify "businesses in a market area" without the identity information Fitzgerald normally delivers to both its processing system and to its participants. (Please see Col. 3, lines 14-18; and and Col. 4, lines 63-67 and Fig. 8).

Further, Applicant respectfully disagreed that applying a filter as taught in Docter would render obvious the invention as claimed. In particular, Docter teaches a filter that operates on *received information*. (Please see e.g. Fig. 2, item 46, Fig. 3, item 62, 70, and 74; see also Col. 8, lines 61-66 "untrusted server 100 receives incoming data from a data source (note shown) and filters *incoming data* using untrusted filter criteria." (Emphasis supplied). "Trusted Server 102 filters the *received data* ... .". At each stage, Docter discloses performing operations on received data, which would necessarily require that confidential information be transmitted, received and then filtered, even assuming the proposed combination is proper. This is contrary to what is recited in the claims - "receiving *only* the exchange data portion at a central computer system at

700026.2

a central location via a computer network," as recited in claim 61. Additionally simply filtering out confidential information would either render Fitzgerald inoperable for its states purpose or change the fundamental nature of Fitzgerald, making the combination improper.

Applicant's Representative and Examiners also discussed potential amendments to clarify the claims. In particular, Applicants and Examiners discussed potential amendments further relating to providing for generation of exchange data, and in addition, discussed potential amendments relating to valuation of a private company, which are not taught in Fitzgerald or the proposed combination.

Although agreement was not reached, the Examiners agreed in principal that the proposed amendments highlighted differences in the proposed combination, but further consideration and/or search would be required, necessitating a Request for Continued Examination. Accordingly, Applicant submits the present Amendment in conjunction with a Request for Continued Examination. In light of the amendments and remarks, Applicant respectfully requests reconsideration and allowance of the pending claims.

<div align="center">Rejections Under 35 U.S.C. §103</div>

The Office Action rejected claims 61-125 under 35 U.S.C. §103(a) as being unpatentable over Fitzgerald, U.S. Patent No. 6,434,533 B1, (hereinafter Fitzgerald, in view of Docter, et al., U.S. Patent No. 6,330,610 B1, (hereinafter Docter).

Fitzgerald is directed to determining pricing information for time dependent inventories (e.g. hotel rooms, rental cars, plane tickets), and not only receives confidential information (including confidential identifying information) at its report center, but also provides confidential information to customers requesting it. (Please see e.g. Col. 4, lines 63-67 and Fig. 8). The Office Action recognizes this deficiency in Fitzgerald, indicating that Fitzgerald fails to disclose, teach or suggest "wherein the private company information includes a confidential data portion … and the exchange data portion is characterized by an absence of confidential identifying information for the private company." (Office Action p. 4-5). The Office Action asserts that Docter cures this deficiency. (Office Action, p. 5). Applicant respectfully disagrees.

First, Fitzgerald teaches away from the proposed combination. Fitzgerald teaches the submission of confidential identifying information to its report center. (Please see e.g. Col. 3, lines 46-47; and Col. 4, lines 63-67 and Fig. 8). Fitzgerald teaches that it was an ***industry***

standard to include confidential identifying company information not only to the report center but to customers as well. (Please see Col. 4, lines 63-67 and Fig. 8) (Emphasis supplied). Thus, contrary to the motivation provided in the Office Action, one of skill in the art would have no reason to predict the result of removing the very information expected to be included by any one skilled in the art.

Second, Docter teaches away from the claimed invention. Docter is directed to a data filtering system that filters data in multiple stages. (Abstract). The system permits filtering of received data without exposing private information to untrusted servers. (Col. 1, line 66 – Col. 2 line 1). "The present invention can be used with … data *received* from any data source or sources." (Col. 3, lines 37-40). Docter teaches a filter that operates on *received information*. (Please see e.g. Fig. 2, item 46, Fig. 3, item 62, 70, and 74; see also Col. 8, lines 61-63 "untrusted server 100 receives incoming data from a data source (not shown) and filters *incoming data* using untrusted filter criteria" (emphasis supplied); Col. 8, lines 65-66 - "trusted Server 102 filters the *received data* … ."). At any disclosed stage, Docter teaches performing operations on *received* data, which would necessarily require that confidential information be transmitted, *received* and then filtered, even assuming the proposed combination is proper. This is contrary to the claimed invention which, for example, requires an act of "receiving only the exchange data portion at a central computer system at a central location via a computer network," as recited in claim 61, as amended.

Third, the proposed modification of Fitzgerald and Docter would either render Fitzgerald inoperable or change its fundamental nature. Fitzgerald *relies* on confidential identifying information to meet its objectives and generate corresponding reports. (Please see e.g. Col. 3, lines 46-47; and Col. 4, lines 63-67 and Fig. 8). For example, the "industry-standard" "Market Fair Share Report" generated from the central report center and provided to users of Fitzgerald's system includes confidential identifying information. (Please see Col. 10 lines 28-31; Fig. 8; and see also Figs. 9A-B (including confidential identifying information)). Without confidential identifying information, Fitzgerald would not be able to identify "businesses in a market area" for exchange of daily performance data – a stated objective of the invention. (Please see Col. 3, lines 14-18). Therefore, the combination of Fitzgerald with *any reference* that teaches receiving only the exchange data portion to its report center would be improper.

The Examiner proposes in the alleged combination that stripping out confidential information by a filter, the very information that would permit the system to indentify competitors and their market areas, would not render Fitzgerald inoperable for it stated purpose. (Please see Office Action, p. 2, para. 5). However, the Examiner does not identify in Fitzgerald, Docter, or in any reference of record how "identifying businesses in a market area" would be possible without the indentifying information that Fitzgerald teaches receiving at its processing facility *and* distributing to its participants. (Please see Col. 10 lines 28-31; Fig. 8; and see also Fig. 9A-B (including confidential identifying information)). Thus the only reasonable reading of Fitzgerald requires confidential information to achieve its stated objectives.

Alternatively, altering Fitzgerald so that it could no longer provide the "industry standard reports" described involves a fundamental change in the operation of Fitzgerald, and is therefore improper. A proposed modification to a reference that fundamentally alters the nature or function of the subject of that reference is improper. (*See* MPEP § 2143.01 VI, "If the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious. *In re Ratti*, 270 F.2d 810, 123 USPQ 349 (CCPA 1959).")

Forth, even if one assumes the combination proper and feasible, the alleged combination does not teach the claimed invention as alleged in the Office Action. As discussed in the Interview Summary and above, Docter teaches a filter that operates on *received information*. (Please see e.g. Fig. 2, item 46, Fig. 3, item 62, 70, and 74; see also Col. 8, lines 61-66 "untrusted server 100 receives incoming data from a data source (note shown) and filters *incoming data* using untrusted filter criteria." (Emphasis supplied). "Trusted Server 102 filters the *received data* ... .". At any stage, Docter discloses performing operations on *received data*, which would necessarily require that confidential information be transmitted, received and then filtered. This is contrary to what is recited in the claims - "receiving *only* the exchange data portion at a central computer system at a central location via a computer network," as recited in claim 61; "receiving only the exchange subrecord via a computer network communication link to the commercial statistical analysis system," as recited in claim 88; "is configured to receive an exchange subrecord from a user location via a computer network, which is characterized by an absence of confidential identifying information for a private company," as recited in claim 106; "receiving only the exchange subrecord via a network communication link to the commercial

statistical analysis system," as recited in claim 113; and "receiving only the exchange subrecord at the statistical analysis system over a computer network," as recited in claim 120.

Last, Applicant respectfully submits that the amendments discussed with the Examiners in the Interview of September 2, 2009 distinguish over the cited references, whether taken alone or in combination. Neither Fitzgerald nor Docter teach, disclose or suggest "generating exchange data from the private company information at the first user location, which is characterized by an absence of confidential identifying information for the private company, wherein the act of generating the exchange data includes acts of associating classifications to the private company information based on the confidential identifying information," and as recited in claim 61, as amended, whether taken alone or in combination. Neither reference teaches anything with respect to "classifications" of "private company information."

Additionally neither reference alone or in combination teaches, suggests or discloses an "output data set comprises statistical information sufficient to obtain a valuation of the private company, the valuation of the private company including at least an estimated market value of the private company, wherein the estimated market value incorporates evaluation of liabilities and assets of the private company, as recited in claim 61." As neither reference teaches suggests or discloses all of the elements of claim 61, withdrawal of the rejection is respectfully requested.

With respect to the remaining independent claims, Fitzgerald and Docter do not teach, suggest or disclose "generating, by the a computer system, an exchange subrecord from the commercial data information at the first user location, which is characterized by an absence of confidential identifying information for the private company, wherein the act of providing for generation of the exchange subrecord includes acts of associating classifications to the private company information based on the confidential subrecord," as recited in claim 88, as amended; a "commercial information exchange system" "configured to receive an exchange subrecord from a user location via a computer network, which is characterized by an absence of confidential identifying information for a private company, which is further characterized by including classifications for the exchange subrecord based on the confidential indentifying information," as recited in claim 106, as amended; "generating, at the first user location, commercial data from the commercial data information, including a confidential subrecord that identifies the private company and an exchange subrecord which is characterized by an absence of confidential identifying information for the private company, wherein the act of generating the

commercial data includes acts of associating classifications to the private company information based on the confidential subrecord," as recited in claim 113, as amended; and "providing for inclusion of the industrial classifications in the exchange subrecord," as recited in claim 120, whether taken alone or in combination. Therefore withdrawal of the rejections is respectfully requested. Claims 61-87 dependent from independent claim 61, claims 89-105 and 122 depend from claim 88, claims 107-112 and 123 depend from 106, claims 114-119 and 124 depend from 114, and are allowable for at least the same reasons discussed with respect to their independent claims.

The proposed combination of Fitzgerald and Docter is improper. Fitzgerald teaches away from the claimed invention as it relies on confidential information. Docter teaches away from the claimed invention, in particular the "receiving only" language of the claimed invention, as is teaches *receiving all* information and then performing filtering operations. Further, the proposed combination renders Fitzgerald inoperable or changes its fundamental nature. Even if assumed proper, the proposed combination does not teach the invention as alleged. Docter teaches performing filtering operations on *received* data, thus the combination would not teach the "receiving only" languages recited in the independent claims. Last, neither Fitzgerald nor Docter taken alone or in combination teach or suggest anything with respect to "classifications" of "private company information." As the proposed combination is improper, and even if assumed proper would not result in the claimed invention as alleged in the Office Action, withdrawal of the rejections is respectfully requested.

CONCLUSION

In view of the foregoing amendments and remarks, reconsideration is respectfully requested. This application should now be in condition for allowance; a notice to this effect is respectfully requested. If the Examiner believes, after this amendment, that the application is not in condition for allowance, the Examiner is requested to call the Applicant's attorney at the telephone number listed below.

If this response is not considered timely filed and if a request for an extension of time is otherwise absent, Applicant hereby requests any necessary extension of time. If there is a fee occasioned by this response, including an extension fee, that is not covered by an enclosed check, please charge any deficiency to Deposit Account No. 50/2762.

Respectfully submitted,
G. Stephen LeGraw, Applicant

By: /Matthew H. Grady/
    Matthew H. Grady, Reg. No. 52,957
    LANDO & ANASTASI, LLP
    One Main Street
    Cambridge, Massachusetts 02142
    United States of America
    Telephone: 617-395-7000
    Facsimile: 617-395-7070

Docket No.: M2062-700010
Date: October 7, 2009